

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

KURT J. SCHMIDT)	
Claimant)	
VS.)	
)	
GAINEY TRANSPORTATION SERVICES)	Docket No. 219,283
Respondent)	
AND)	
)	
INSURANCE COMPANY)	
STATE OF PENNSYLVANIA)	
Insurance Carrier)	

ORDER

Respondent asked the Appeals Board to review a preliminary hearing Order Nunc Pro Tunc entered by Administrative Law Judge John D. Clark on February 12, 1997.

ISSUES

In its Application for Review by Workers Compensation Appeals Board, the respondent listed the following issues:

“A. Whether the court exceeded its jurisdiction in awarding payment of all medical bills of claimant.

“B. Whether the court exceeded its jurisdiction in awarding temporary total disability benefits from October 12, 1996 until January 14, 1997.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the briefs of the parties, the Appeals Board finds the issues raised by the respondent on appeal are not subject to review by the Appeals Board at this juncture of the proceedings.

The Appeals Board has on numerous previous occasions determined that K.S.A. 44-534a grants the Administrative Law Judge authority to make a preliminary award of medical and temporary total disability benefits pending a full hearing on the claim. The Administrative Law Judge in his Order Nunc Pro Tunc dated February 12, 1997, ordered the respondent to pay medical expenses and authorized Stephen Lemons, M.D., as claimant's treating physician. The Administrative Law Judge also ordered respondent to pay temporary total disability benefits to the claimant from October 22, 1996, until January 14, 1997. Accordingly, the Appeals Board finds that the Administrative Law Judge did not exceed his jurisdiction as alleged by the respondent and further finds that the respondent's Application for Review should be dismissed.

WHEREFORE, the Appeals Board finds the appeal should be dismissed and the preliminary hearing Order Nunc Pro Tunc entered by Administrative Law Judge John D. Clark dated February 12, 1997, should remain in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of March 1997.

BOARD MEMBER

c: James B. Zongker, Wichita, KS
J. Donald Lysaught, Kansas City, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director